

June 21, 2019

SENT VIA EMAIL



901 Fifth Ave, Suite  
#630  
Seattle, WA 98164  
(206) 624-2184  
aclu-wa.org

Tana Lin  
Board President

Michele Storms  
Executive Director

Mayor Jenny A. Durkan  
Seattle City Hall  
600 Fourth Avenue, 7<sup>th</sup> Floor  
Seattle, Washington 98104

Councilmember Sally Bagshaw  
Seattle City Hall  
600 Fourth Avenue, 2<sup>nd</sup> Floor  
Seattle, Washington 98104

Councilmember Lisa Herbold  
Seattle City Hall  
600 Fourth Avenue, 2<sup>nd</sup> Floor  
Seattle, Washington 98104

Councilmember Teresa Mosqueda  
Seattle City Hall  
600 Fourth Avenue, 2<sup>nd</sup> Floor  
Seattle, Washington 98104

Councilmember Abel Pacheco  
Seattle City Hall  
600 Fourth Avenue, 2<sup>nd</sup> Floor  
Seattle, Washington 98104

City Attorney Pete Holmes  
701 Fifth Avenue, Suite 2050  
Seattle, Washington 98104

Monitor Merrick J. Bobb  
Police Assessment Resource Center  
Post Office Box 27445  
Los Angeles, California 90027

Council President Bruce A. Harrell  
Seattle City Hall  
600 Fourth Avenue, 2<sup>nd</sup> Floor  
Seattle, Washington 98104

Councilmember M. Lorena González  
Seattle City Hall  
600 Fourth Avenue, 2<sup>nd</sup> Floor  
Seattle, Washington 98104

Councilmember Debora Juarez  
Seattle City Hall  
600 Fourth Avenue, 2<sup>nd</sup> Floor  
Seattle, Washington 98104

Councilmember Mike O'Brien  
Seattle City Hall  
600 Fourth Avenue, 2<sup>nd</sup> Floor  
Seattle, Washington 98104

Councilmember Kshama Sawant  
Seattle City Hall  
600 Fourth Avenue, 2<sup>nd</sup> Floor  
Seattle, Washington 98104

Assistant U.S. Attorney Christina Fogg  
700 Stewart Street, Suite 5220  
Seattle, Washington 98101

Re: *U.S. District Judge James L. Robart's Order Regarding City of  
Seattle Having Fallen Out of Compliance with the Consent Decree*

Mayor Durkan, Councilmembers, City Attorney Holmes, Assistant U.S.  
Attorney Fogg, and Monitor Bobb,

The undersigned legal and community organizations write to urge your  
attention and prompt action on Judge Robart's May 21, 2019 finding that  
the City and Seattle Police Department (SPD) "have fallen out of full and  
effective compliance with the Consent Decree concerning SPD discipline

and accountability” and ordering that, by July 15, the City and U.S. Department of Justice, with the assistance of the Community Police Commission (CPC) and Monitor, present the Court with a substantive proposal for “how the City proposes to achieve compliance.”

The Court’s ruling notes that both the United States and the City have acknowledged that Seattle’s “old accountability system is inadequate.” The Court did not concur with the City and DOJ’s position that the Court should find the City in compliance with regard to the accountability system, and instead agreed with the position of Amicus CPC on behalf of the community that while other key consent decree goals have been met, reform of the accountability system has not.

As you know, the City committed, in the Accountability Ordinance adopted two years ago, to “ensure by law a comprehensive and sustainable independent oversight system that guarantees a police department that has the trust and confidence of the community and respects the constitutional rights of the people of Seattle.”<sup>1</sup> The Council and Mayor further expressed their commitment to “take whatever steps are necessary” to “allow[] for the earliest possible implementation” of the Ordinance:

[T]he police are granted extraordinary power to maintain the public peace, including the power of arrest and statutory authority ... to use deadly force in the performance of their duties under specific circumstances. Timely and comprehensive implementation of this ordinance constitutes significant and essential governmental interests of the City, including but not limited to

- (a) instituting a comprehensive and lasting civilian and community oversight system that ensures that police services are delivered to the people of Seattle in a manner that fully complies with the United States Constitution, the Washington State Constitution and laws of the United States, State of Washington and City of Seattle;
- (b) implementing directives from the federal court, the U.S. Department of Justice, and the federal monitor;
- (c) ensuring effective and efficient delivery of law enforcement services; and
- (d) enhancing public trust and confidence in SPD and its

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<sup>1</sup> City of Seattle Ordinance 125315 (passed unanimously by Council May 22, 2017; signed by Mayor and filed by City Clerk June 1, 2017) at p. 2, lines 1-4. Accessed online June 14, 2019, at <https://seattle.legistar.com/View.ashx?M=F&ID=5256007&GUID=C6C20636-273B-4D07-941C-4E9BD0EE440C>.

employees.

For these reasons, the City shall take whatever steps are necessary to fulfill all legal prerequisites within 30 days of Mayoral signature of this ordinance, or as soon as practicable thereafter, including negotiating with its police unions to update all affected collective bargaining agreements so that the agreements each conform to and are fully consistent with the provisions and obligations of this ordinance, in a manner that allows for the earliest possible implementation to fulfill the purposes of this Chapter...<sup>2</sup>

Despite this, the City then agreed to a Collective Bargaining Agreement (CBA) negotiated with the Seattle Police Officers Guild (SPOG, representing officers and sergeants) that, according to the Court's ruling, "eliminates reforms instituted by the Accountability Ordinance." In fact, two years after its passage, the Accountability Ordinance has yet to be codified, and the City's filing to the Court is filled with references that the City may move to amend various aspects of the Ordinance.

Continued delay in implementing an accountability system that complies with the Consent Decree is unacceptable. For decades, the Mayor's Office, City Council, and City Attorney's Office have been promising the people of Seattle a strong police accountability system, only to have progress repeatedly undermined in the collective bargaining process. The continuation of this cycle is especially troubling after all the improvements unanimously adopted by the Council as part of the 2017 Accountability Ordinance and the Court's clear statements that it would examine labor contracts closely for compliance with the Consent Decree.

The organizations signing this letter are no strangers to this cycle of Seattle's broken promises regarding the accountability system. In December 2010, we jointly requested that the U.S. Department of Justice investigate whether SPD had engaged in a pattern or practice of civil rights violations by subjecting the community to excessive force and biased policing.<sup>3</sup> We are now joined by additional organizations, including those who supported the 2017 Accountability Ordinance and who submitted a letter to the Council in 2018 expressing their concern that the CBA negotiated with SPOG undermined the ordinance.

The Court's order is clear: the cycle of bargaining away accountability is to end now. Judge Robart instructed the parties to the Consent Decree "with the assistance of the Monitor and the CPC" to formulate and file not only a proposed methodology "for assessing the present accountability

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<sup>2</sup> *Id.* at p. 105, line 14, through p. 106, line 8 (formatting supplied).

<sup>3</sup> <https://www.aclu-wa.org/pages/re-request-investigate-pattern-or-practice-misconduct-seattle-police-department>

regime” but also a substantive plan “for how the City proposes to achieve compliance.”

There is no shortage of ideas for how to bring the City into compliance. The Accountability Ordinance was based on CPC recommendations, with input from the community and subject matter experts. The CPC provided the Court (at its invitation) with a detailed assessment of the many weaknesses and barriers created by the CBA, or created because of inaction by the City on other aspects of the system not subject to bargaining, and how each of those may undermine community trust and confidence. Based on that assessment, the Court ordered the City to work not only with DOJ, but also with the CPC and Monitor on a submittal back to the Court to show how these would be remedied. Yet, to date, more than five years after the CPC issued its recommendations to the City as it was charged with doing under the Consent Decree Settlement Agreement, and more than two years after adoption of the Accountability Ordinance, there has been no indication that the City plans to live up to its commitments to the Court and the community to fully implement the promised reforms.

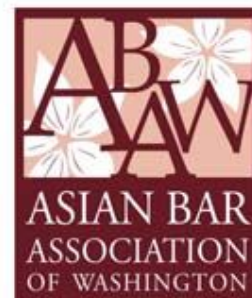
Because this matter is urgent and central to the civil rights and public safety of our communities, we urge your prompt action and professional cooperation with the CPC to regain the City’s compliance with the Consent Decree and to begin to rebuild the trust of the communities we serve.

Sincerely,



A handwritten signature in black ink, appearing to read "Michele Storms". The signature is fluid and stylized, with a large loop at the end.

Michele Storms  
Executive Director



A handwritten signature in black ink, appearing to read "Aileen Tsao". The signature is fluid and stylized, with a large loop at the end.

Aileen Tsao  
Board Member



Asian Counseling and Referral  
Service  
Michael Byun  
Executive Director



Asian Pacific Islander Coalition of Washington State  
Celebrating Unity and Civic Participation  
Asian Pacific Islander Coalition  
(APIC) of King County

Diane Narasaki & Tony Lee  
Co-Chairs



Marcos Martinez  
Executive Director



Janice Deguchi  
Chair



**BYRD BARR  
PLACE**

Andrea Caupain Sanderson  
CEO




BRIDGING CULTURES  
COMMUNITIES & GENERATIONS

Chinese Information and  
Service Center

Michael Itti  
Executive Director



  
Michael Ramos  
Executive Director



  
Estela Ortega  
Executive Director




  
Merril Cousin  
Executive Director

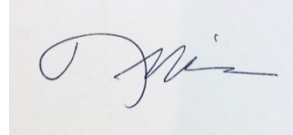


  
  
Rev. Paul Benz & Elise DeGooyer  
Co-Directors



Fred T. Korematsu Center for Law  
and Equality  
  
Robert S. Chang  
Executive Director

John T. Williams Organizing  
Coalition  
Jay Westwind Wolf Hollingsworth  
Chair

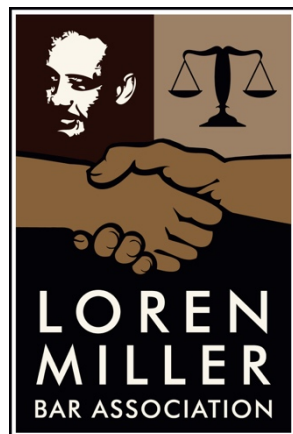


Nina Martinez  
Board Chair



**LELO**

Legacy of Equality, Leadership  
and Organizing  
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Board Member



Raina V. Wagner  
President



Rev. Harriett Walden  
Founder



Jorge L. Barón  
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President & Police Accountability Chair



Prachi Dave  
Senior Attorney

Seattle Women's Commission

Idabelle Fosse, Darya Farviar,  
Jamilah Williams & Min Pease  
Co-Chairs

The Defender Initiative, Seattle  
University School of Law

Robert C. Boruchowitz  
Director

Vietnamese Community  
Leadership Institute  
Linh Thai  
Managing Director

Cc: Bessie Scott, Executive Director, Community Police Commission